

## **LAND USE AND ZONING COMMITTEE**

*Minutes: April 20, 2006*

The Land Use and Zoning Committee hereby find and determine that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:55 p.m.

The following members were present: Messrs. Hazel, Hullihen, Klco, Morse, Welch, Terriaco, and Messes. Ross and Garland. Staff: David Radachy.

### **Concord Township**

#### **District Change R-1 to B-1, 0.8 of an Acre on Old Johnnycake Ridge Road**

Staff stated this was requested to rezone 0.8 of an acre from R-1 to B-1. There are commercial and office uses similar to what is proposed and what is allowed on B-1. There is multi-family across the street. The Township stated in their Comprehensive Plan that they wanted to develop more commercial uses.

Staff stated that there is an issue of commercial creep and possibility of strip commercial developing along Old Johnnycake Road, but staff believes it will end here or at the adjacent property that is still zoned R-1. Staff recommended approval.

The committee asked if they had seen this case before. Staff stated that the committee and the Planning Commission reviewed and recommended approval of the rezoning for the dentist office next door and reviewed and recommended approval of this site in October, 2005. The owners of the property were forced to withdraw as he reviewed his options. Now they have resubmitted.

Mr. Klco made a motion to recommend approval of the district change.

Mr. Welch seconded.

All voted "Aye".

Motion passed.

### **Leroy Township Text Changes**

Staff explained that Leroy was changing or creating new definitions and making housekeeping changes to the zoning resolution.

#### ***Add New Definition:***

Collector's Vehicle: Any motor vehicle or agriculture tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owners principle means of transportation.

Staff stated that this definition is similar to the one adopted by Concord Township.

**Changes in Definitions:*****New Definition:***

Junk Motor Vehicle: A junk motor vehicle means a motor vehicle that meets all of the following criteria:

1. Three model years old, or older.
2. Apparently inoperable.
3. Extensively damaged, including, but not limited to, any of the following: missing wheels, tires, engine, or transmission. A collector's vehicle, whether licensed or unlicensed, is a junk motor vehicle if it meets the above three (3) criteria.

Staff stated that this definition is similar to the one adopted by Concord Township.

***Current Definition:***

Junk Vehicle: Any vehicle that is unlicensed and/or inoperable.

***New Definition:***

Lot, Minimum Area of: The area of a lot is computed inclusive of no more than half of the road or street right-of-way when lot owner holds title to the same.

***Current Definition:***

Lot, Minimum Area of: The area of a lot is computed inclusive of any portion of the right-of-way of any public or private street.

The new definition eliminates an issue of two sections conflicting with each other. This new definition would allow homeowners the ability to count ½ of what is in the right-of-way if they own to the centerline of the road.

**Addition to Section 3 - Districts**

4. Special Interchange district, which shall be designated as "B-2" district. When the B-2 district was created, they did not add it to the section that announces what districts exists in Leroy Township. This corrects that issue.

**Change to Section 9 – Prohibited Uses*****New Section 9.12***

9.12 Junk motor vehicles of any type and unlicensed collector's vehicles, stored, collected, or accumulated, for a period of more than thirty (30) days, unless enclosed in a building or garage.

***Old Section 9.12***

9.12 Unlicensed or inoperable vehicles which remain on land in any district other than those zones for auto wrecking for a period of more than fifteen (15) days. The only exceptions to this section will be in the case of service stations engaged in towing and storing vehicles pending action by responsible parties, repair garages performing repairs and dealers holding vehicles for resale. The above-mentioned exceptions must perform their services on the property normally used for their businesses. Any dismantling or reducing to scrap of vehicles shall take place only in a wrecking yard.

## **Change in Section 14.16 – Conditional Use Permit for Adult Oriented Business**

### **14.16.2 General Requirements:**

14.16.2.3 No adult oriented business shall be located within one thousand (1000) linear feet of any religious institution, public or private school, public park or play ground or ***any child day care facility***.

This is the same change that was recommended to Painesville Township when they added child day care facilities to their B-3 District.

### **Change to 15.03 Minimum Lot Area:**

3. In computing lot area, no more than one-half (½) if the width of the road or street right-of-way may be included in the lot area calculation when lot owner holds title to the same.

Staff recommends approval. The minimum lot area requirement is consistent with the new definition.

### **Change to Section 17.01 Permitted Uses in Business, B-1 District**

1. Any use permitted in an R district shall be permitted in a B district except single or two family/***duplex*** dwellings for residence purpose and buildings accessory thereto.

Staff stated that two-family is listed as two-family/duplex in the definitions.

There was no discussion from the Committee.

Mr. Morse motioned to recommend the text changes.

Mr. Hullihen seconded.

All voted “Aye”.

Motion passed.

### **Painesville Text Change – Addition of Section XXXII (32)**

Mr. Welch asked if this was the language for the Lakeview Bluffs project. Staff stated this language was submitted by the owners of the property that will become Lakeview Bluffs, but this is the creation of a new district. Districts can be used anywhere in the Township.

Mr. Welch stated that the area requirement and lakefront or river frontage requirement would limit the location. Staff agreed that it would be limited.

Staff is recommending approval with the following changes.

XXXII = 32, change section number to XXXIII

Section 33.02 C 3 change “in accordance with Lake County Subdivision Regulations” to “in accordance with all applicable regulations including, but not limited to the following:”

33.03 Permitted uses, add places of worship. You need to provide for them in order to be compliant with RLUPA.

33.09 C Just state in accordance with Lake County Subdivision Regulations, do not have a specific width listed.

33.09 H Remove any commentary from the regulations. In this section it mentions that Lakeview Bluffs will comply with the needs of the vehicles involved, but does not want the look of an open, concrete circle. This information is not necessary or appropriate for this resolution.

Make sure all references are the same through the regulations. Preliminary Development Plan was referred to as Preliminary Plan in Section 33.12 A 5.

Mr. Morse stated that he was against the whole project because the site was Diamond Shamrock. He is concerned about health issues of future residents. He felt that we should wait until the EPA has cleared the site before we start talking about new districts and rezoning the land.

Staff stated that this is the creation of a new zoning district. This zoning district could be used anywhere in the Township that meet the criteria set forth in the regulations. Right now, the logical spot for this zoning district is the land that once had Diamond Shamrock on it. The actual district change is the next item.

Mr. Terriaco stated that he felt that the health and safety of the public should be a concern for the Trustees, not us.

Mr. Welch agreed with Mr. Terriaco.

Mr. Welch made a motion to recommend the creation of Section XXXIII, MUPUD District with staff's suggestions.

Mr. Hullihen seconded the motion.

Five voted "Aye".

Three voted "Nay".

Motion passed.

### **Painesville Township District Change from I-2, Heavy Industry to MUPUD.**

Staff showed the location of the district change and an air photo of the site. Staff explained it was 524.4 acres of land in ownership of Tierra Solutions. The land has not been released to Hemisphere, so they are unable to ask for the district change.

Staff recommends approval with the condition that Planning Commission be involved with the approval of the Preliminary Development Plan. This land has frontage on Lake Erie and would be better served as MUPUD.

Mr. Morse restated his concerns about the site. Mr. Hazel stated that this was the first step of a big project.

Mr. Welch made a motion to recommend the district change.

Mr. Terriaco seconded the motion.

Five voted “Aye”.  
Three voted “Nay”.  
Motion passed.

The Committee wanted to add a comment that this project should not come at a price of someone’s health or the financial well being of the citizens of Lake County. He was concerned that something unforeseen would create a financial burden on the citizens while making a contractor wealthy. He also feels that all health risks should be minimized prior to this project being started.

**Perry Township Text Changes:**

Section 216.05 i and 307.04 p. Adding Erosion and Sedimentation Control to Design Standards. Staff recommends that this section be re-written to read: Erosion and Sedimentation Controls shall be incorporated into the site plan. These controls shall be in conformance with the regulations adopted by the Board of Lake County Commissioners pursuant to ORC 307.79.

Section 216.05 j and 307.04 q. Should read: Water Quality. Water quality shall conform to the standards set forth in the Water Quality Resolution.

Staff stated that they were very happy that Perry is adding riparian setbacks to the regulations. They would like to make the following suggestions to make them better:

Adding reference to riparian setbacks to 307, PUD Districts, 310.02, Multi-Family, 301, Residential, 302 Estates Residential 1, 303 Estates Residential 2, 304, Estates Residential 3, 306, Lakeshore Residential, 311, B-2 Business, 315, I-1, 316, I-2, and 317, I-3.

Recommend approval.

New Sections 407 and 405 are based on the Geauga County Planning Commission Model Township Zoning Resolution.

Section 407 Water Quality needs to have language stating who is responsible to administer these new rules. Staff has some concerns that Perry Township is using outdated information. The Chagrin River Watershed Partners have been working with the Geauga County Townships. Perry Township should consider asking them for technical help in the establishment of these regulations.

Section 405 Riparian setbacks: Staff recommends the following:

The model regulations address the existing buildings that are located in the riparian setbacks, Perry’s proposed regulations do not address this issue. They should consider it.

The model regulations also address the repair, maintenance, extension, replacement, restoration, reconstruction, or substitution of a building that is lawfully existing in a riparian setback. Perry’s proposed regulations do not address this issue. They should consider it.

The model regulations have definitions of terms defined in the regulations. Perry should consider doing this.

Riparian setbacks in Perry Township are only being placed onto Red Creek, Red Mill Run, Arcola and the Grand River. Riparian setbacks should be placed on all streams and not just Red Creek, Red Mill Run, Arcola Creek and the Grand River. The model regulations suggest that anything with a drainage greater than 0.5 square miles should have a setback. Any stream with less than 0.5 square miles and has a defined bank and bed should be taken under consideration on a case-by-case basis.

Perry Township is placing a 25-foot setback for Red Creek, Red Mill Run and Arcola and a 150-foot setback for the Grand River. Perry Township should consider using the same standards that are in the Lake County Subdivision Regulations. Those standards have been accepted and Perry and Lake County would be consistent. Perry could also use the standards set in the model regulations of 120 feet for a watershed that drains 20 square miles or greater, 75 feet for watersheds that are between 0.5 square miles and 20 square miles and 25 feet for all other streams.

The Committee asked about what the subdivision standards were. Staff stated:

Table 1. Riparian Setback Standards

| Square Mileage of the Watershed | Buffer Size or Setback Distance  |
|---------------------------------|----------------------------------|
| 0-2.5 square miles              | 25 feet each side of the stream  |
| 2.5-5 square miles              | 40 feet each side of the stream  |
| 5-10 square miles               | 50 feet each side of the stream  |
| 10-20 square miles              | 75 feet each side of the stream  |
| 20-50 square miles              | 100 feet each side of the stream |
| 50 and above square miles       | 120 feet each side of the stream |

They asked staff to put these standards into our recommendation.

The riparian setback should start at the high water mark or the edge of the flood plain, not at the centerline of the stream. This is recommended by the model and is a requirement of the Lake County Subdivision Regulations.

The model regulations suggest creating a riparian setback map. Perry should consider doing this.

The model regulations suggest that riparian setbacks be shown on the site plans.

The model regulations list all the uses that are listed in Perry's proposed text. These are staff's issues:

405.04 a) Fishing, hunting, picnicking, and wildlife observation are passive activities and leave no real effect on the sites. If you don't require people to get a zoning certificate to do these activities in other parts of the Township, it goes without saying that you do not need a zoning certificate in the riparian setback. You do not need to list these activities unless there are facilities built in conjunction with these activities. Trails, walkways, and paths should be required to have a zoning certificate in order to make sure they are built to the proper standard. Picnic shelters should be prohibited. It is too large of a structure and will cross into active recreation.

Riparian setbacks are design to serve various functions, which are limiting stream bank erosion, reducing flood flows, filtering and settling out pollutants, and protecting aquatic and terrestrial habitats. Roots systems, especially trees, of the vegetated riparian setback hold stream bank soils in place against the force of high velocity waters. Forested riparian areas prevent non-point pollution from entering the stream

405.04 d) Allows owners to put lawns and landscaping into the riparian setback. This goes against many of the tenets of the riparian setback. Many home owners put fertilizer on their lawns or use other chemicals on their lawns. This will put pollutants right next to the stream

405.04 g) Composting. Some owners put food in their compost, along with grass and other natural materials. If a flood happens, these materials will go into the stream and will be washed downstream. It may cause a health hazard.

405.04 h) On-site Sewage Systems and Waste Water Treatment Plants. On-site Sewage Systems should be listed as Household Sewage Disposal Systems (HSDS) as per the recommendation of the Lake County General Health District. They should not be allowed into the riparian setback. It would be too close to the stream. The Lake County Subdivision Regulations also only allow pipes from treatment plants and storm facilities into the riparian setbacks. Perry Township should consider having a similar requirement.

In the Geauga County Model Regulations, boat ramps, decks and docks are conditional uses.

The model regulations have a section of inspections of the Riparian Setbacks. This should also be considered.

Agriculture needs to be addressed in the riparian setback.

The Chagrin River Watershed Partners helped Geauga County develop these regulations. Perry should consider asking for their assistance in creating these regulations.

Mr. Morse made a motion to recommend the text changes with staff's suggestions.  
Mr. Hazel seconded the motion.

Seven voted "Aye".  
Mr. Welch abstained.